

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
v.) CRIM. NO. 04-10031-WGY
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)
JAMES REID)

MOTION TO EXAMINE JURY QUESTIONNAIRES BEFORE VOIR DIRE

Counsel for the defendant James Reid move this Court to grant counsel for both parties access to questionnaires that have been filled out by prospective jurors and returned to the Clerk's Office for the U.S. District Court. Counsel wish to review the veniremen's answers to questions on the questionnaire in advance of jury selection in this case, which will take place on November 13, 2006.

The juror questionnaires contain information that is clearly pertinent to the qualifications of the respondents to sit, and review of the information provided in advance of juror selection would aid all parties in the intelligent exercise of their peremptory challenges. For example, the questionnaires contain information about a given juror's level of education, his or her degree of fluency in English, whether he or she holds public office or serves in the military, or has ever been convicted of a crime. This information is not provided to the parties on the printed jury sheets given to counsel in the courtroom moments before the panels appear for voir dire. Moreover, the usual

scope of questioning of prospective jurors under current local practice does not in the normal course elicit the information referenced above. Yet this information is on hand and available to the Clerk of the Courts because it has been provided in the juror questionnaire. It has the most relevance and usefulness to the actual litigants, and by this motion undersigned counsel pray this court that they and opposing counsel be given access to this information.

Though undersigned counsel have found no rule of court governing the handling of jury questionnaires in this jurisdiction, the U.S. District Court for the District of New Hampshire does have a pertinent local rule allowing the parties access to the jury questionnaires in advance of voir dire. The New Hampshire rule, Local Rule 47.1 of the Rules of the District Court provides as follows:

The clerk's office shall maintain and make available a list of petit jurors currently serving, together with copies of completed questionnaire forms, to attorneys and their agents and to pro se parties actually involved in cases scheduled for trial. Those persons shall not disclose information the jurors provide nor shall the questionnaires be photocopied or removed from the clerk's office. The court may further limit the inspection of juror information for good cause. Violation of this rule may be treated a contempt of court.

By this motion, counsel are asking this Court to adopt New Hampshire practice and allow counsel to inspect the questionnaires submitted by the persons appearing on the panels

to be assigned to this session for trial on November 13, 2006. No rule in this jurisdiction appears to prohibit such attorney access to the information, and the information is much more useful to the parties than to anyone else with access to the questionnaires.

Counsel requested access to juror questionnaires in the case of United States v. Joseph Palermo, 06-10171-RWZ. Judge Zobel granted the motion and counsel were allowed to review questionnaires. Undersigned counsel is apprising the court of this history so that it will know this request is not completely unprecedented. Moreover, counsel represents that the review went smoothly and did not unduly interfere with the operations of the Jury Clerk. Counsel request that the parties be allowed to review questionnaires on Friday November 10, 2006.

Respectfully submitted,

By his attorneys,

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CERTIFICATE OF SERVICE

I, Syrie D. Fried, do hereby certify that this motion has been filed electronically and that it will be served electronically to registered ECF participants as identified on the Notice of Electronic Filing (NEF) on November 1, 2006.

/s/ Syrie D. Fried